

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	25 May 2017
PANEL MEMBERS	Jason Perica (Chair), Abigail Goldberg, Ken Greenwald, Bob Ward
APOLOGIES	Kara Krason
DECLARATIONS OF INTEREST	Michael Leavey declared a non-pecuniary interest as he was involved in prior consultancy work for the former Gosford Council within the last 12 months related to development and strategic planning matters and this may give rise to a perceived conflict of interest. He also had some involvement in the early assessment of 14 Bent Street. He therefore took no part in the Panel and any prior briefings or discussions.

Public meeting held at Central Coast Council, Gosford Office, 49 Mann Street Gosford on Thursday 25 May 2017 opened at 4:30 pm and closed at 5.40 pm.

MATTER DETERMINED

2016HCC008 – Central Coast Council – DA49056, 14 Bent Street Gosford (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at Item 6, the material listed at Item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was unanimous.

REASONS FOR THE DECISION

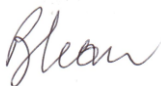
The Panel reviewed the council assessment report and did not agree with the overall environmental assessment, balance of considerations under Section 79C of the EPA Act 1979, nor the recommendation to approve the application. The Panel refused the application for the following reasons:

1. The Clause 4.6 Variation request to the maximum Height of the Building standard in Gosford Local Environmental Plan 2014 (GLEP 2014) was not considered to be well founded. In particular, the Panel noted that the arguments for “averaging” the height standards to avoid significant variations in scale lead to a significant height non-compliance at the eastern portion of the site, at the area of the site where a height transition to lower heights to the east and north-east was sought through the wider height controls. The resulting development will lead to an unacceptable height transition to existing and likely future development in the area. There were no compelling environmental planning grounds to support the variation request, and the Panel did not accept the proposal resulted in a “better” form of development compared to a proposal which complied with the height limit. The proposal is considered to be inconsistent with the following Building Height objectives:
 - (b) to permit building heights that encourage high quality urban form,
 - (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,

2. The Panel notes that while the proposal does have the benefit of a 30% bonus to the maximum height and floor space ratio due to Clause 8.9 of GLEP 2014, this clause has since lapsed and this will affect the likely future character of the area, causing the height transition issues to become more pronounced.
3. The proposed setbacks, in particular to the east and west boundaries, do not comply with State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) and associated Apartment Design Guidelines (ADG). The use of blank walls to ameliorate separation issues causes unsatisfactory visual impacts, amenity impacts and overall built form.
4. The internal amenity is not considered to be high, including bedrooms with borrowed light over living areas and no windows, non-compliance with sunlight access in the ADG and a general lack of openings for light and ventilation (needed to address issues with non-compliance side boundary setbacks and limitations from the site size and scale of development proposed).
5. The reliance on blank walls on the subject and adjoining sites, particularly to the east (assuming their redevelopment) would not result in a high quality urban form. The proposal leads to an unsympathetic interface with existing and likely future development.
6. The proposal does not adequately respond to or achieve design excellence as required by Clause 8.5 of GLEP 2014.
7. While the proposal is acknowledged to be under the maximum FSR, this needs to be considered in combination with other planning standards and controls, and the proposal is considered an over development of the site.
8. The proposal is considered to result in an isolated site to the east, and while the applicant's efforts and their response from Land and Housing Corporation is acknowledged, this should not obviate the need for an appropriate built form in the context of core planning controls and existing and likely future development in the surrounding area.
9. Various DCP non-compliances with Gosford DCP 2014, including maximum building depth and setbacks.
10. The proposal will lead to adverse overshadowing and visual impacts to surrounding and adjoining land, part of which is directly attributable to the height non-compliance.
11. Approval of this application would not be in the public interest and would create an undesirable precedent due to the significant height non-compliance for a proposal not considered to exhibit design excellence and with no compelling justification.

PANEL MEMBERS	
 Jason Perica (Chair)	 Bob Ward
 Abigail Goldberg	 Ken Greenwald

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC008 – Central Coast Council – DA49056
2	PROPOSED DEVELOPMENT	Ninety (90) Unit Residential Flat Building
3	STREET ADDRESS	14 Bent Street, Gosford NSW 2250
4	APPLICANT/OWNER	Rudi Valla
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments/legislation: - Environmental Planning & Assessment Act 1979 – Section 79C - Local Government Act 1993 – Section 89 - Rural Fires Act 1997 - State Environmental Planning Policy (SEPP) No 55 – Remediation of Land - State Environmental Planning Policy (SEPP) No 65 – Design Quality of Residential Apartment Development - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - Gosford Local Environment Plan 2014 - Draft environmental planning instruments: Nil - Development control plans: - Gosford Development Control Plan 2013 - Planning agreements: Nil <i>Environmental Planning and Assessment Regulation 2000</i> - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: 12 May 2017 - Written submissions during public exhibition: Three (3) - Verbal submissions at the public meeting: - On behalf of the applicant – Rudy Valla, Brett Brown
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing Meeting 12 May 2016 - Site Visit 25 May 2017 - Final briefing meeting to discuss council's report and recommendation, 25 May 2017, 3:30 pm Attendees: <u>Panel members</u>: Jason Perica (Chair), Abigail Goldberg, Ken Greenwald, Bob Ward <u>Council assessment staff</u>: Robert Eyre, Ailsa Prendergast, Mark Wassen
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report